

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Emily Devaney	Team: Squad #4	CCRB Case #: 201906176	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 07/13/2019 6:20 PM	Location of Incident: West 96th Street and Broadway	Precinct: 24	18 Mo. SOL 1/13/2021	EO SOL 8/30/2021	
Date/Time CV Reported Mon, 07/15/2019 4:01 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Mon, 07/15/2019 4:01 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. DTS Michael Mannese	5432	945950	ESS 02

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM William Bodner	23938	962951	024 PCT
2. An officer			

Officer(s)	Allegation	Investigator Recommendation
A.DTS Michael Mannese	Force: Detective Michael Mannese used physical force against § 87(2)(b)	
B.DTS Michael Mannese	Discourtesy: Detective Michael Mannese acted discourteously toward § 87(2)(b)	
C.DTS Michael Mannese	Abuse: Detective Michael Mannese damaged § 87(2)(b)'s property.	

### Case Summary

On July 15, 2019, § 87(2)(b) filed this complaint in-person at the CCRB.

On July 13, 2019, at approximately 6:20 p.m., § 87(2)(b) was a bystander at the scene of an officer-involved vehicle accident at the intersection of West 96<sup>th</sup> Street and Broadway in Manhattan. § 87(2)(b) was filming a video of the scene on his cellphone when Detective Michael Mannese from ESS 2 pushed him (**Allegation A: Force**, § 87(2)(g)). Det. Mannese slapped § 87(2)(b)'s cellphone which fell out of § 87(2)(b)'s hand and onto the ground (**Allegation B: Discourtesy**, § 87(2)(g)). The glass backing of § 87(2)(b)'s phone shattered as a result of hitting the ground (**Allegation C: Abuse of Authority**, § 87(2)(g)).

The investigation obtained two cellphone videos from § 87(2)(b) (Board Review 01-02) and a photograph of his damaged cellphone (Board Review 03). The investigation also obtained two body-worn camera (BWC) videos which did not capture the incident (Board Review 04-05).

### Findings and Recommendations

#### **Allegation (A) Force: Detective Michael Mannese used physical force against § 87(2)(b)**

It is undisputed that there was a vehicle accident involving an NYPD vehicle and a civilian's vehicle at the intersection of West 96<sup>th</sup> Street and Broadway in Manhattan. The NYPD vehicle was stopped in the center of the intersection blocking vehicle traffic, while the other vehicle was stopped on West 96<sup>th</sup> Street.

§ 87(2)(b) testified that Det. Mannese instructed him and other bystanders to move back (Board Review 06). § 87(2)(b) remained in place and did not move. Det. Mannese pushed § 87(2)(b) with one hand, making contact with § 87(2)(b)'s stomach. § 87(2)(b) tensed his abdominal muscles. § 87(2)(b) did not know if he stepped backward or moved as a result of being pushed. Then Det. Mannese struck § 87(2)(b)'s cellphone out of his hand (see analysis of **Allegations B-C** below). Det. Mannese did not otherwise make contact with § 87(2)(b).

Det. Mannese testified that he told the crowd of bystanders to move back multiple times because an ESU truck was going to move the NYPD vehicle out of the intersection and toward the side of the road near the crowd (Board Review 07). This caused a safety hazard for the bystanders as pushing the NYPD vehicle with the ESU truck was difficult to steer in the right direction. Det. Mannese held both arms outstretched in front of him as he told bystanders to move. The crowd obeyed Det. Mannese's instruction, except for § 87(2)(b) who attempted to walk around Det. Mannese's arms. Instead of avoiding Det. Mannese, § 87(2)(b) walked into Det. Mannese's outstretched arm such that § 87(2)(b)'s chest made contact with Det. Mannese's right arm. This was the only physical contact between Det. Mannese and § 87(2)(b). Det. Mannese denied pushing § 87(2)(b).

Police Officer William Bodner of the 24<sup>th</sup> Precinct was present at the scene but did not witness the interaction between Det. Mannese and § 87(2)(b) (Board Review 08).

The cellphone video from § 87(2)(b) shows the interaction with Det. Mannese beginning at the 7:25 minute-mark of the player's timestamp (Board Review 01). § 87(2)(g) Det. Mannese instructed § 87(2)(b) to move, and § 87(2)(b) did not comply. The video does not clearly show whether Det. Mannese made contact with § 87(2)(b) because the camera was in such close proximity to Det. Mannese that his arms were not in frame. § 87(2)(b) does not seem to fall or move backward in any way.

§ 87(2)(g)

§ 87(2)(g)

**Allegation (B): Discourtesy: Detective Michael Mannese acted discourteously toward § 87(2)(b).**

**Allegation (C) Abuse of Authority: Detective Michael Mannese damaged § 87(2)(b)'s property.**

It is undisputed that § 87(2)(b) cellphone fell from his hands and collided with the ground.

§ 87(2)(b) testified that he did not move after Det. Mannese instructed him to move back (Board Review 06). § 87(2)(b) remained in place and held his cellphone horizontally at eye-level with both hands recording. Det. Mannese struck § 87(2)(b) cellphone with one hand in a downward motion. The cellphone fell from § 87(2)(b) hands and collided with the ground shattering the back cover of his phone.

§ 87(2)(b) presented his phone during his CCRB interview, and a photo of the phone was taken as evidence (Board Review 03). The photo depicts cracks in the glass casing on the reverse side of § 87(2)(b) iPhone 8.

Det. Mannese testified that he believed § 87(2)(b) was recording a video on his cellphone at the time because of how § 87(2)(b) was holding and pointing his cellphone (Board Review 07). § 87(2)(b) stepped into and collided with Det. Mannese's right arm causing § 87(2)(b) to drop his cellphone. § 87(2)(b) chest made contact with Det. Mannese's arm, not his cellphone. Det. Mannese never made contact with § 87(2)(b) cellphone.

§ 87(2)(b) cellphone video showed that § 87(2)(b) remained in place and did not move toward Det. Mannese at the 7:34 minute-mark of the player's timestamp (Board Review 01). At the 7:36 minute-mark, Det. Mannese raised his right hand, and § 87(2)(b) cellphone subsequently fell to the ground. The screen became black, and § 87(2)(b) said that Det. Mannese knocked his cellphone out of his hand. Between 7:57 and 8:37, different voices can be heard telling § 87(2)(b) that they witnessed Det. Mannese knocking the cellphone out of § 87(2)(b) hand.

Upon viewing this video, Det. Mannese declined to amend his statement that § 87(2)(b) cellphone fell due to § 87(2)(b) walking into Det. Mannese (Board Review 07).

PO Bodner denied witnessing this interaction (Board Review 08).

§ 87(2)(g)

§ 87(2)(g)

The NYPD is committed to protecting the lives and property of all citizens of New York City by treating every citizen with compassion, courtesy, professionalism, and respect, according to its Mission and Values stated in NYPD Patrol Guide Procedure 200-02 (Board Review 09). In addition, per NYPD Patrol Guide Procedure 203-10, officers are prohibited from engaging in conduct that is prejudicial to good order (Board Review 10).

In *Onderdonk v. State*, 170 Misc. 2d 155 (1996), the court ruled that police officers can damage property only if doing so is reasonably necessary to carry out their duties (Board Review 11).

§ 87(2)(g)

§ 87(2)(g)

### **Civilian and Officer CCRB Histories**

- § 87(2)(b) has been party to six CCRB complaints and has been named a victim in 18 allegations (Board Review 12):

- § 87(2)(b)

- 

- 

- 

- 

- 

- § 87(2)(g)

- Detective Michael Mannese has been a member of service for 12 years and has been a subject in four CCRB complaints and 9 allegations, of which two were substantiated (Board Review 13):

- 201110612 involved substantiated allegations of frisk and search against Det. Mannese. The Board recommended Charges, and the NYPD did not impose a penalty.


- § 87(2)(g)

### **Mediation, Civil and Criminal Histories**

- This complaint was not suitable for mediation.
- As of April 30, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regard to this complaint (Board Review 14).

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: 4

Investigator:		<u>Inv. Devaney</u>	<u>12/16/2020</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u>Raquel Velasquez</u>	<u>IM Raquel Velasquez</u>	<u>12/16/2020</u>
	Signature	Print Title & Name	Date

Reviewer:	<u></u>	<u></u>	<u></u>
	Signature	Print Title & Name	Date